

**SUMMARY REPORT OF INVESTIGATION**  
**Office of Inspector General Case # 15-0564 (Officer Ricardo Viramontes)**  
**June 30, 2016**

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This report consists of a summary of the evidence set out in the attached investigative materials and the Office of Inspector General's (OIG's) analysis of that evidence. An index of the investigative materials is attached.

**I. INTRODUCTION**

An OIG investigation has established that Ricardo Viramontes, a police officer for the Chicago Police Department (CPD) who was present when Officer Jason Van Dyke shot Laquan McDonald on October 20, 2014, violated CPD Rules and Regulations during the subsequent CPD investigation.<sup>1</sup> Viramontes was assigned to Beat 841R on October 20, 2014, and arrived at the scene with his partner, Officer Dora Fontaine, as Van Dyke was shooting McDonald. As detailed further below, Viramontes made false statements during his subsequent interview with CPD, which served to exaggerate the threat McDonald posed. Accordingly, OIG recommends that CPD discharge Viramontes and refer him for placement on the ineligible for rehire list maintained by the Department of Human Resources.

**II. APPLICABLE RULES, REGULATIONS, AND LAW**

**A. CPD Rules and Regulations**

The “Rules and Regulations of the Chicago Police Department” set out the standards of conduct and duties of sworn members, as well as CPD goals. The Rules and Regulations state that sworn members must “conduct themselves at all times in such a manner as will reflect credit upon the Department with emphasis on personal integrity and professional devotion to law enforcement.”

Article V of the CPD Rules and Regulations, entitled CPD Rules of Conduct (the CPD Rules), sets forth specifically prohibited acts. In pertinent part, the CPD Rules include the following prohibitions:

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| <b>Rule 2</b> | Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department. |
| <b>Rule 3</b> | Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.                                      |

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<sup>1</sup> CPD’s investigation in the aftermath of the McDonald shooting was reported under record number HX-475653, and most reports were classified as an investigation into an aggravated assault in which McDonald was the offender. In a few reports, the case was classified as an investigation into a justifiable homicide of which McDonald was the victim. An additional record number was also created and classified as a justifiable homicide, apparently for recordkeeping purposes. In CPD’s investigative reports classified under the aggravated assault, CPD personnel drew conclusions about the propriety and lawfulness of Van Dyke’s shooting of McDonald. This raises questions about CPD’s role in investigating a police-involved shooting in light of IPRA’s jurisdiction over the matter.

**Rule 14** Making a false report, written or oral.

### **III. OFFICER VIRAMONTES'S EMPLOYMENT HISTORY**

Viramontes has worked as a CPD Police Officer since October 27, 2003. He is a member of Fraternal Order of Police (FOP) Lodge 7.

### **IV. SUMMARY OF INVESTIGATION**

#### **A. Procedural History of OIG's Investigation**

By letter, dated December 8, 2015, Independent Police Review Authority (IPRA) Acting Chief Administrator Sharon Fairley requested that OIG conduct an administrative investigation "to determine whether certain police officers/witnesses made false statements on official reports prepared in connection with [Van Dyke's shooting of McDonald] and/or during the investigation of the incident."<sup>2</sup> IPRA further requested that OIG investigate "whether any of the involved Chicago Police officers committed any other violation(s) of Chicago Police Department rules, policies or procedures in their involvement with the incident, including, but not limited to, whether any officers' conduct may have interfered with or obstructed the appropriate investigation and handling of this matter."

Then, by letter, dated January 13, 2016, CPD Interim Superintendent John J. Escalante requested that OIG conduct an "administrative investigation into any and all allegations of police officer misconduct" arising out of the October 20, 2014 shooting death of McDonald. The Superintendent's request asked OIG to investigate the following allegations: "whether any officer(s) made false statements on official reports submitted in connection with the shooting of Laquan McDonald on October 20, 2014; whether any officer(s) obstructed or interfered with the investigation of this incident, either individually or in collusion with others; and whether any officer(s) committed any violation of Chicago Police Department rules, policies, or orders in connection with their response and/or handling of this matter." Escalante attached to the letter request a copy of Sergeant Sandra Soria's Initiation Report, which raises allegations of misconduct related to the in-car video systems of the vehicles that were present during the McDonald shooting, and identified that Report as a basis for OIG's administrative investigation.

On March 10, 2016, Kevin Kilmer, Financial Secretary for the FOP, on behalf of all affected members, filed a grievance with CPD stating that OIG's attempts to conduct CPD officer interviews violated Article 6 of CPD's Collective Bargaining Agreement (CBA) with the FOP.<sup>3</sup>

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<sup>2</sup> On November 24, 2015, the Cook County State's Attorney charged Van Dyke with a single count of first degree murder in the shooting of McDonald. On December 15, 2015, it subsequently charged him with six counts of murder. OIG has not been involved with any criminal investigation related to the shooting and makes no findings regarding Van Dyke's use of force.

<sup>3</sup> Section 6.1, Paragraph I of the CBA states, "If the allegation under investigation indicates a recommendation for separation is probable against the Officer, the Officer will be given the statutory administrative proceeding rights, or if the allegation indicates criminal prosecution is probable against the Officer, the Officer will be given the

On March 16, 2016, FOP on behalf of all impacted CPD officers filed a “Complaint for Injunction in Aid of Arbitration” in the Circuit Court of Cook County, asking the court to enjoin OIG from conducting interviews until the grievance was decided in arbitration.<sup>4</sup> The court dismissed the complaint and denied the injunction on March 22, 2016.

OIG’s administrative investigation of other CPD employees’ actions related to the McDonald shooting is ongoing. During the course of its investigation, OIG has gathered documents from CPD and IPRA, among other sources, and conducted numerous interviews, including interviews of thirteen CPD personnel who were at or responded to the scene of the shooting and seven civilian witnesses to the shooting. To date in its ongoing investigation, OIG has recommended disciplinary action against multiple CPD personnel, sustaining allegations that each put forth a false narrative regarding the shooting.

## B. The Events of October 20, 2014

The following sections detail the shooting of McDonald, as well as the relevant events that occurred directly before and after the shooting.<sup>5</sup>

### 1. [REDACTED] and Rudy Barillas’s Encounter with McDonald<sup>6</sup>

[REDACTED] and [REDACTED] Rudy Barillas, were parking a truck in a lot at 41st Street and Kildare Avenue when [REDACTED] saw a black male, whom she subsequently identified as McDonald, attempting to steal property from certain vehicles parked in the lot. Barillas told McDonald to leave the lot. McDonald responded by making growling noises. After Barillas again told McDonald to leave the lot, McDonald pulled out a knife and swung it at Barillas. Barillas, who had already called 911, then threw his cell phone at McDonald.<sup>7</sup> McDonald ran from the lot, first northbound on Kildare and then eastbound on 40th Street.

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constitutional rights concerning self-incrimination prior to the commencement of interrogation.” CPD General Order GO8-01-01, Paragraph K contains similar language.

<sup>4</sup> *Fraternal Order of Police, Chicago Lodge 7 v. City of Chicago*, No. 2016 CH 03726 (Cir. Ct. of Cook County, Ill., Mar. 16, 2016).

<sup>5</sup> On April 22, 2016, OIG obtained maps of the locations that are relevant to the shooting from Google Maps and included those maps in Appendix A. Those maps generally reflect the street layout and location of relevant businesses as they were on the night of October 20, 2014.

<sup>6</sup> The following account of [REDACTED] and Barillas’s encounter with McDonald is taken from the March 16, 2015 case supplementary report (CSR) submitted by CPD Detective David March, which includes the statements that [REDACTED] and Barillas provided to CPD on October 21, 2014, and October 22, 2014, respectively. OIG 15-0564 003077.

<sup>7</sup> OEMC recordings reflect that Barillas called 911 at 9:45 p.m. stating that he was holding “a guy right hear [sic] that stolen [sic] the radios” from trucks in a truck yard located at “41st and Kildare.” OIG 15-0564 003227.

2. Officers Thomas Gaffney and Joseph McElligott's Encounter with McDonald<sup>8</sup>

Officer Thomas Gaffney and his partner Officer Joseph McElligott received a call over the radio that someone had broken into a truck at 4100 South Kildare and were dispatched to the scene.<sup>9</sup> Gaffney was driving, and McElligott was in the passenger seat of their assigned vehicle, 815R.<sup>10</sup> When they arrived at 4100 South Kildare, they saw a Hispanic male and female standing by the gate to the truck yard. The two said that a black male wearing a black shirt, later determined to be McDonald, had been trying to steal the radio out of a semi-truck, and had subsequently headed north toward 40th Street.

Gaffney and McElligott drove north on Kildare, turned right onto 40th Street, and saw McDonald walking east on the south side of 40th Street. McElligott exited the vehicle and commanded McDonald to stop and turn around. Gaffney stayed in the vehicle in case McDonald attempted to flee. McElligott ordered McDonald to take his hands out of his pockets. McDonald, who had been facing McElligott, turned and walked away with one hand still in his pocket. McDonald then turned again and took both of his hands out of his pockets. He had a knife in his right hand. McElligott drew his weapon and told McDonald to drop the knife. McDonald started walking east again, going from the sidewalk to the street and back. McElligott followed McDonald on foot, shining his flashlight on him, while Gaffney followed in 815R, parallel to McDonald.

As McDonald approached the intersection of 40th and Keeler, Gaffney reported to dispatch that

<sup>8</sup> The following account of Gaffney and McElligott's encounter with McDonald is taken from (1) the audio-recorded statements Gaffney and McElligott provided to IPRA on October 21, 2014, OIG 15-0564 000482-98, 000610-30; and (2) the March 16, 2015 CSR submitted by Detective David March, which includes the statements that Gaffney and McElligott provided to March on the night of the McDonald shooting. OIG 15-0564 003067-69.

<sup>9</sup> OEMC records reflect that Gaffney and McElligott received the call at 9:47 p.m. OIG 15-0564 003691.

<sup>10</sup> Below is a chart identifying the beat numbers and vehicle numbers of the CPD vehicles that were present when McDonald was shot, along with the names of the officers who were assigned to those vehicles. This SRI refers to the below-referenced vehicles by beat number, unless otherwise specified.

Beat #	Vehicle #	Officers
845R	6412	Officer Joseph Walsh (driver), Officer Van Dyke (passenger)
815R	8489	Officer Gaffney (driver), Officer McElligott (passenger and on foot)
813R	8779	Officer Janet Mondragon (driver), Officer Daphne Sebastian (passenger)
822R	8765	Officer Arturo Becerra (driver), Officer Leticia Velez (passenger)
841R	8948	Officer Viramontes (driver), Officer Fontaine (passenger)

McDonald was walking away with a knife in his hand.<sup>11</sup> Gaffney and McElligott continued to follow McDonald as he headed east, with McElligott giving McDonald orders to drop his knife and stop. McDonald kept turning around and giving the officers a “weird glaze[d] look.” Gaffney IPRA Tr. 11:20.<sup>12</sup>

As McDonald approached the intersection of 40th and Karlov, Gaffney turned his car toward McDonald to direct him down Karlov. Gaffney wanted to keep McDonald away from Pulaski, which was a more populated area. McDonald then swung his arm and popped 815R’s right front tire with his knife. McElligott was toward the back of 815R when McDonald popped its tire. After McDonald took a step back from the vehicle, Gaffney pulled up further in front of him to stop him from proceeding to Pulaski. McDonald then hit the right side of 815R’s windshield once with the knife in his right hand. The windshield did not break but, according to Gaffney, McDonald hit it as hard as he could. McDonald walked around the front of 815R and continued eastward on 40th Street. After McDonald had walked 10 to 15 feet, another squad car turned off of Pulaski onto 40th Street with its lights on, and McDonald began to sprint. McElligott followed McDonald on foot, and Gaffney followed McDonald in 815R. McDonald ran eastbound through a parking lot of a Burger King located at 40th and Pulaski and then headed southbound on Pulaski. Video footage from several cameras captured McDonald’s movements as he reached Pulaski.

### 3. Summary of the Relevant Video Footage

The below table contains a summary of the relevant video footage of the McDonald shooting, which includes the dashcam videos from 813R, 823R, and 845R, video from the “WNE fire exit” security camera from the Greater Chicago Food Depository, which is bordered by 40th Street to the north, Karlov Avenue to the east, and Keeler Avenue to the west, and the security camera video from the Dunkin’ Donuts, located at 4113 South Pulaski Road (the DD Camera).<sup>13</sup>

Time	Event(s) Captured	Source of Video
9:53:17 – 9:54:42	McDonald walks eastbound on the south side sidewalk of 40th Street; a CPD SUV travels east on 40th Street, parallel to McDonald with its front bumper even with McDonald; an officer on foot trails directly behind	Greater Chicago Food Depository Security Camera

<sup>11</sup> OEMC recordings reflect that, at 9:53 p.m., 815R reported: “We’re at 40th and Keeler. This guy uh is walking away from us and he’s got a knife in his hand.” Approximately 30 seconds later, a dispatcher stated, “815R looking for a taser.” See OEMC Documents and CDs; see also OIG 15-0564 003691, 3228.

<sup>12</sup> OIG 15-0564 000620.

<sup>13</sup> In addition to the videos cited in the summary, OIG obtained video footage from the security camera videos at Burger King and Focal Point, and the dash camera videos from Vehicles 815R and 821R. These videos did not contain footage relevant to this report.

	McDonald by the length of the SUV, with his flashlight trained on McDonald. <sup>14</sup>	
9:56:53 – 9:57:01	813R and 845R turn left onto 40th Street from Pulaski.	813R Dashcam
9:57:01 – 9:57:09	An unidentified person on 40th Street points the CPD vehicles toward the Burger King parking lot (813R); 845R turns into the parking lot (813R). McDonald runs southeast through the Burger King parking lot out onto Pulaski (845R).	813R Dashcam; 845R Dashcam
9:57:09 – 9:57:20	845R drives over the curb and sidewalk north of Burger King and heads south on Pulaski (845R); 813R turns around, turns right onto 40th Street, and then right again on Pulaski (813R); McDonald runs southbound in the middle of Pulaski and enters the intersection of 41st Street and Pulaski (813R).	813R Dashcam; 845R Dashcam
9:57:20 – 9:57:25	845R, which is facing east/southeast on Pulaski just north of 41st street, turns right behind McDonald and proceeds south on Pulaski on the east side of the street; 845R's passenger door briefly opens and then closes as it passes McDonald on his left; McDonald continues southbound on Pulaski, toward 822R, which is stopped in the middle of Pulaski facing north.	813R Dashcam
9:57:25 – 9:57:28	McDonald slows as he approaches 822R, touches his hands to his waist, and then, before Walsh and Van Dyke exit 845R, extends his right arm fully to his right—the video shows that he has a silver object in his right hand; 845R passes 822R and comes to a stop on the east side of Pulaski, facing south and almost directly south of 822R; Van Dyke opens 845R's passenger door.	813R Dashcam
9:57:28 – 9:57:30	McDonald changes course and begins walking southwest on Pulaski, away from 822R and 845R (813R); Van Dyke exits the passenger side of 845R with both of his feet in	813R Dashcam; DD Camera <sup>15</sup>

<sup>14</sup> OIG confirmed the vehicle is 815R and the officer on foot is McElligott by comparing the video with photographs of the officers. OIG 15-0564 003356.

<sup>15</sup> The DD Camera video does not display an embedded timestamp. Therefore, OIG used the timestamp of 813R's video, which generally captured the same events as the DD Camera from a different angle, to establish the timeframe of the events captured by the DD Camera.

	Pulaski's northbound left turn lane, his gun drawn and pointed at McDonald (813R). Walsh exits the driver side of 845R, just east of Pulaski's northbound left turn lane, with his gun drawn, and moves north along the driver side of 845R until he is several feet north of 845R (DD Camera).	
9:57:30 – 9:57:33	McDonald continues to walk southwest, from the middle of Pulaski to the lane markers that divide the west side of the road (or approximately one lane west of where McDonald was prior to changing course) (813R). While McDonald walks southwest, Walsh begins moving sideways in a west/southwest direction, approximately parallel to McDonald, and crosses over the east side of Pulaski's northbound left-turn lane—his gun is pointed at McDonald (813R; DD Camera). Van Dyke takes approximately two steps northwest toward McDonald, with his left foot crossing into Pulaski's yellow-painted median strip—his gun is pointed at McDonald (813R; DD Camera). 822R drives north on Pulaski, away from 845R (813R). 841R drives north in the middle of Pulaski, toward 845R and stops approximately one car length south of 845R, facing north (813R; DD Camera).	813R Dashcam; DD Camera
9:57:33 – 9:57:36	As McDonald approaches the lane markers on the west side of Pulaski, walking in a southwest direction, he looks to his right and moves his right hand behind his waist, near the right side of his lower back, then brings his hand back to his right side (813R). As McDonald crosses the lane markers on the west side of Pulaski, he looks to his left, and takes a step southbound (813R). Meanwhile, Walsh continues moving west/southwest with his gun pointed at McDonald, ultimately traversing almost the entire width of Pulaski's northbound left-turn lane (813R; DD Camera). Van Dyke takes an additional step west, toward McDonald, putting both of his feet in Pulaski's median strip and placing himself almost directly between McDonald and Walsh (813R; DD Camera). McDonald is then apparently shot and Walsh stops moving and adopts a stance, with his feet more than a shoulder's width apart (813R; DD Camera). Viramontes opens 841R's driver's door; Fontaine opens 841R's passenger door (845R).	813R Dashcam; 845R Dashcam; DD Camera
9:57:36 –	McDonald spins between 180 and 270 degrees in a	813R Dashcam;

9:57:54	clockwise direction and then falls to the ground with the top of his head pointing south on Pulaski, approximately one street lane east of Van Dyke and just south of Van Dyke (813R). As McDonald falls to the ground, Van Dyke takes another step west toward McDonald, moving his right foot from Pulaski's median strip into the south-bound side of Pulaski; his gun remains pointed at McDonald (813R). Van Dyke subsequently takes an additional step or two south, toward McDonald. Other than those steps, Van Dyke's feet are stationary (DD Camera). After McDonald is on the ground, his legs and feet do not move (813R). McDonald's upper body makes small, intermittent movements as what appear to be puffs of smoke rise from McDonald's body (813R). Viramontes exits the driver's door of 841R and stands by the driver's side of the vehicle; Fontaine exits the passenger door of 841R and walks to 845R (845R). <sup>16</sup>	845R Dashcam; DD Camera
9:57:54 – 9:58:05	An officer approaches McDonald and kicks the knife from his hand. McDonald does not make any noticeable movements.	813R Dashcam
9:58:05-9:58:20	McDonald lies on the ground; no aid is rendered by CPD personnel. 823R, travelling northbound, pulls up on the west side of Pulaski, and stops just south of where McDonald is lying.	813R Dashcam; 823R Dashcam
9:58:20-9:58:57	Several CPD officers walk and stand near McDonald as he lies on the ground; no aid is rendered by CPD personnel.	813R Dashcam; <sup>17</sup> 823R Dashcam
9:58:57-9:59:02	823R begins making a U-turn on Pulaski. A Cook County Sheriff's Police Department (CCSPD) officer puts on blue gloves and walks toward McDonald. <sup>18</sup> McDonald is no longer visible in the video frame.	823R Dashcam

<sup>16</sup> OEMC records show that dispatch received notice to send an ambulance to the scene at 9:57:51. OIG 15-0564 003691.

<sup>17</sup> The last time stamp visible on the 813R dashcam video is 9:58:55.

<sup>18</sup> OIG identified the CCSPD officer as Officer Adam Murphy.

#### 4. CCSPD Officer Accounts of the October 20, 2014 McDonald Shooting<sup>19</sup>

While on patrol on October 20, 2014, CCSPD Officers Adam Murphy and Jeff Pasqua observed several CPD police vehicles pass by them. Both officers decided to follow the CPD vehicles. When they arrived at the scene, several CPD vehicles were already present—Pasqua estimated it was five or six. McDonald was lying on the pavement “gasping for his last breath of air.” Pasqua OIG Tr. 11:22-23. Meanwhile, the CPD officers were “standing around” and talking to each other. Murphy OIG Tr. 11:1. Murphy noted the CPD officers did not respond to him when he asked if they needed assistance. Murphy stated:

I see there’s blood all over the pavement. [McDonald] was kind of gurgling when he was sitting there. I remember his mouth was going open and closed like he was trying to gasp for air. And I looked for everybody else, and they were kind of standing there. I just started taking my gloves—my rubber gloves out to check for a pulse and to see if I could render aid.

Murphy OIG Tr. 12:18-13:2. He heard someone say an ambulance was en route. Both Officers Murphy and Pasqua recalled then watching McDonald take his final breaths.<sup>20</sup> It was “[m]aybe less than a minute before [McDonald] expired.” Murphy OIG Tr. 14:15-16. At no time did any CPD officers attempt to provide aid or comfort McDonald—Murphy stated, “That’s why I felt that I needed to go up to him.” Murphy OIG Tr. 14:11-12.

After McDonald passed away, Murphy got up from beside him and noticed the shooting officer, who he now knows to be Van Dyke, “pacing back and forth in front of his car.” Murphy OIG Tr. 15:7-8. Murphy approached him and told him to sit down and drink water. As he was speaking with Van Dyke, Murphy “heard several officers telling [Van Dyke] to ‘call your union rep, call your union rep.’” Murphy OIG Tr. 15:16-17.

Murphy and Pasqua departed after approximately ten minutes on the scene when a CPD sergeant told them CPD did not need their assistance. At the time they left, there was “[a] sea of CPD” on scene. Murphy OIG Tr. 38:3; Pasqua OIG Tr. 25:7-8.

#### C. Officer Viramontes’s October 20, 2014 Statement to Detective David March<sup>21</sup>

On March 15, 2015, Detective David March submitted a case supplementary report (CSR) with the R.D. Number HX475653 that contains a summary of CPD’s investigation in the aftermath of the McDonald shooting. Lieutenant Anthony Wojcik approved the CSR on March 16, 2015. Included in that CSR is March’s summary of the statement he obtained from Viramontes at the

<sup>19</sup> The following CCSPD Officer accounts are taken from OIG’s June 23, 2016 interview of Jeff Pasqua and its June 24, 2015 interview of Adam Murphy. Pasqua and Murphy are currently CCSPD investigators.

<sup>20</sup> The Medical Examiner’s Case Report states McDonald was pronounced dead “on view” at Mount Sinai Medical Center on October 20, 2014, at 10:42 p.m. OIG 15-0564 015029.

<sup>21</sup> OIG 15-0564 003071.

scene of the shooting.<sup>22</sup> The CSR summarizes Viramontes's October 20, 2014 statement in relevant part as follows:

[W]hen [Viramontes] exited his police vehicle, at the scene, he observed a black male subject, now known as Laquan McDonald, walking southbound on Pulaski Road, in the middle of the street, holding a knife in his right hand. Viramontes heard Officer Jason Van Dyke repeatedly order McDonald to "Drop the Knife!" McDonald ignored the verbal direction and turned toward Van Dyke and his partner, Officer Joseph Walsh. At this time Van Dyke fired multiple shots from his handgun. McDonald fell to the ground but continued to move, attempting to get back up, with the knife still in his hand. Van Dyke fired his weapon at McDonald continuously, until McDonald was no longer moving.

#### D. OIG's Interview of Officer Viramontes

On February 19, 2016, pursuant to Section 6.1 of the CBA between CPD and FOP, OIG, through CPD's Bureau of Internal Affairs, served Viramontes with a Notification of Interview, Notification of Allegations, and copies of his prior statements, including: (1) his October 20, 2014 statement to March, contained in the March 16, 2015 CSR; and (2) March's GPR containing his handwritten notes of his interview of Viramontes. In addition, OIG provided Viramontes with the dashcam footage from 813R and 845R and the security camera footage from Dunkin' Donuts.<sup>23</sup>

On March 18, 2016, OIG investigators interviewed Viramontes under oath after informing him of his administrative advisements orally and in writing. He provided oral and written acknowledgment of the reading of those advisements. The interview was transcribed by a certified court reporter. Viramontes's attorney, Jennifer Russell, was also present for the interview. In summary, Viramontes stated as follows.

As of October 20, 2014, Viramontes was assigned to CPD's 8th District and was working the first watch on Beat 841R under the command of Sergeant Stephen Franko.

##### 1. The Scene of the Shooting

On the evening of October 20, 2014, Viramontes was Fontaine's partner. Viramontes and Fontaine were present when Van Dyke shot McDonald. Immediately following the McDonald shooting, one of the sergeants who arrived at the scene told Viramontes and Fontaine that they would be the "paper" car, meaning they would write the initial incident report. Viramontes OIG Tr. 64:21. In order to complete that report, Viramontes began walking around the perimeter of the scene and gathering information from the officers who were present, including their names,

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<sup>22</sup> March completed a General Progress Report (GPR) relating to his interview of Viramontes that contains March's handwritten notes of the interview. OIG 15-0564 003253. March's handwritten notes of the interview do not differ in any significant way from his summary of Viramontes's statement in the CSR.

<sup>23</sup> Viramontes's car, 841R, recorded no video or audio that night.

star numbers, and assignments. Shortly thereafter, a different sergeant, over the radio, ordered Viramontes and Fontaine to accompany McDonald's body to the hospital. While on the way to the hospital, Fontaine asked over the radio whether she and Viramontes should continue to the hospital or return to the scene to complete the case incident report. Fontaine and Viramontes were told to go back to the scene and complete the report, which they did.

Viramontes spoke to Detective March briefly at the scene of the shooting.<sup>24</sup> Viramontes believed that conversation took place before he and Fontaine left for the hospital. March approached 841R and asked Viramontes for his name, star number, unit of assignment, and for "a quick brief of what happened." Viramontes OIG Tr. 75:4-5. Viramontes was in the driver's seat of 841R, with the windows open, when he spoke with March. Fontaine was in the passenger seat of 841R at the time. Viramontes told March that he "saw Mr. McDonald walking down the street swinging his arm very angrily, he looked very agitated. I saw him turn toward the officers, and Officer Van Dyke started shooting." Viramontes OIG Tr. 78:9-14. March also spoke with Fontaine, but Viramontes did not recall what Fontaine told March or whether her account of events was the same as Viramontes's account. March took notes of his conversation with Viramontes.

At some point, while he was collecting the names and star numbers of the detectives in the Dunkin' Donuts near the shooting scene, Viramontes saw a "glimpse" of what he believed to be the Dunkin' Donuts security camera video of the shooting. Viramontes OIG Tr. 80:11. Viramontes said the detectives were trying to watch the video on a laptop computer. Viramontes believed that was the only video of the shooting he saw at the scene that evening.

Viramontes did not have any substantive conversations with Van Dyke at the scene of the shooting. Viramontes had never worked with Van Dyke, and only spoke to him on rare occasions. The two had never socialized outside of work.

## 2. Area Central

Viramontes was not sure how long he was at the scene of the shooting, but at some point he was told to leave and go to Area Central, at 51st and Wentworth. He and Fontaine drove there together in 841R, but they did not discuss the shooting. When they arrived at Area Central, they ate pizza and waited to give statements to IPRA. Several other officers who had been at the scene of the shooting were at Area Central as well, but there was no substantive conversation among those officers about the shooting.

At some point, a detective, possibly March, showed Viramontes and Fontaine a video of the shooting. He believed that it was the in-car video from 813R. The detective did not ask any questions while the video was playing. Viramontes believed that what he saw on the video confirmed the statements he made to March on the scene. Viramontes did not know why the detective showed him and Fontaine the video; when Viramontes started to tell the detective about what happened in more detail, the detective "didn't really want to listen to what I had to say, so

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<sup>24</sup> Viramontes did not know March's name at the time of their initial conversation, but later learned from the documents he reviewed that March was the detective with whom he spoke at the scene of the shooting.

he moved to Officer Fontaine.” Viramontes OIG Tr. 97:17-18.

After leaving the room in which they watched the video, Viramontes waited until it was his turn to provide a statement to IPRA. IPRA never asked him to make a statement, though, and he was eventually told that he could leave.

### 3. Viramontes’s Statement to Detective March

Viramontes was asked to review the statements attributed to him in the March 16, 2015 CSR. Specifically, he was presented with the following statements and, when asked to review them, gave the following responses:

Statement from CSR	Response When Asked to Review
“Officer Viramontes added that when he exited his police vehicle at the scene, he observed a black male subject, now known as Laquan McDonald, walking southbound on Pulaski Road in the middle of the street holding a knife in his right hand.”	Viramontes affirmed that he made this statement to March and that it was accurate. He then clarified that he made his initial observations of McDonald when he was inside his vehicle, approaching the scene. He explained, “My door opened as the shooting started.” Viramontes OIG Tr. 124:9-10. With this clarification, Viramontes confirmed that his observations themselves were accurate.
“Viramontes heard Officer Jason Van Dyke repeatedly order McDonald to drop the knife.”	Viramontes affirmed that he made this statement to March and that it was accurate.
“McDonald ignored the verbal direction and turned toward Van Dyke and his partner officer Joseph Walsh.”	Viramontes affirmed that he made this statement to March.
“At this time, Van Dyke fired multiple shots from his handgun.”	Viramontes affirmed that he made this statement to March and that it was accurate.
“McDonald fell to the ground but continued to move, attempting to get back up with the knife still in his hand.”	Viramontes affirmed that he made this statement to March. When asked if the statement was accurate, Viramontes answered: “Yes, to my ability, yes. . . That’s what I saw. That’s the statement I gave to the detectives.” Viramontes OIG Tr. 129:22-130:1.
“Van Dyke fired his weapon at	Viramontes affirmed that he made this statement to

McDonald continuously until McDonald was no longer moving.”	March and that it was accurate.
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Viramontes reviewed the allegations against him as set out in the Notification of Allegations served upon him by OIG. He responded, in relevant part, to the allegations as follows.

Allegation	Response
“It is alleged that, on or about October 20, 2014, you made a false statement during [an] interview with CPD Detective March when you stated that after McDonald fell to the ground, he attempted to get back up with the knife still in his hand.”	When asked, “Do you stand by your previous statement to Detective March?”, Viramontes answered, “Yes, I do.” Viramontes OIG Tr. 130:20-22. Viramontes was asked this question, and gave this answer, on two separate occasions.
“It is alleged that on or about October 20, 2014, you made a false statement during an interview with CPD Detective March when you stated that McDonald ignored Officer Van Dyke’s verbal direction to drop the knife and turned toward Van Dyke and Officer Walsh.”	When asked, “Do you stand by your previous statement to Detective March?”, Viramontes answered, “Yes.” Viramontes OIG Tr. 133:14-16.

Viramontes was subsequently shown portions of 813R and 845R’s dashcam videos and the Dunkin’ Donuts security camera. Viramontes was asked again whether he arrived to the scene in time to hear Van Dyke repeatedly say “drop the knife.” Viramontes OIG Tr. 151:7. Viramontes stated that he heard Van Dyke give the directive after he, Viramontes, opened his vehicle door. Viramontes claimed that Van Dyke was saying “drop the knife” as he was shooting McDonald. Viramontes OIG Tr. 152:5-7. When Viramontes was asked whether he heard Van Dyke say “drop the knife” before he started shooting, Viramontes answered: “I couldn’t have, because I was still traveling.” Viramontes OIG Tr. 152:10-11.

Viramontes was then asked whether, in light of the video footage he just watched, he wanted to clarify the statement attributed to him in March’s CSR that after McDonald fell to the ground, he continued to move, attempting to get back up. Viramontes answered, “No.” Viramontes OIG

Tr. 155:18. Viramontes went on to say: “You know, this is the problem that I have about that video. You can keep showing me that video. I mean, you can show me and show me, but what I thought I saw when I got there is what I gave my statement to the detective. Now, the video, of course everybody is telling me different, but the video might show me differently, but I believe what I stated is what I thought I saw.” Viramontes OIG Tr. 156:10-19.

#### 4. Viramontes’s Grand Jury Testimony

Viramontes testified before a grand jury regarding the McDonald shooting, but did not remember specific details about what questions he was asked. When asked about the statements he made to the grand jury, Viramontes said: “When I gave my testimony to the [g]rand [j]ury, I believed I was out of the car when the actual shooting happened. That was probably one thing I did remember saying . . . I found that later on that I was actually not even out of the car when it happened.” Viramontes OIG Tr. 47:2-10. He then stated he corrected himself in the grand jury, after he was shown video of the shooting during his testimony there and realized the discrepancy between his original recollection and the video evidence. He explained, “[T]he perspective that I had at that time was just my timing was distorted.” Viramontes OIG Tr. 49:20-22.

### V. ANALYSIS

OIG’s investigation established that Viramontes made multiple false statements in his interview with CPD regarding the McDonald shooting. Viramontes’s false statements all served a similar purpose: to exaggerate the threat McDonald posed.<sup>25</sup>

Viramontes’s actions, individually and collectively, constitute violations of CPD Rules. Each of Viramontes’s false statements constitutes a violation of Rule 14 (making a false report, written or oral). His false statements also constitute violations of Rule 2 (engaging in any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department), and Rule 3 (failing to promote the Department’s efforts to implement its policy and accomplish its goals). An officer who has made false statements in an official investigation has irrevocably tainted not only his credibility, but also the credibility of CPD—and also fails to promote CPD’s goal of employing officers with personal integrity and professional devotion to law enforcement. Accordingly, OIG recommends that CPD discharge Viramontes.

Viramontes made two clear false statements to Detective March on October 20, 2014, regarding the McDonald shooting that are clearly contradicted by the 813R and 845R dashcam video, the most objective and reliable evidence of the events that night. Most notably:

- Viramontes stated that, after McDonald fell to the ground, he attempted to get back up with the knife still in his hand.

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<sup>25</sup> OIG also examined the issue of Viramontes’s compliance with CPD rules and orders regarding the use of his in-car video system on October 20, 2014. OIG determined there is not a sufficient basis to conclude that Viramontes violated those rules or orders.

- Viramontes stated that McDonald ignored Van Dyke's verbal direction to "drop the knife" and turned toward Van Dyke and Walsh.

First, the 813R dashcam video clearly shows that McDonald did not attempt to get up after he fell to the ground. Upon being shot and falling to the street, McDonald never moved his legs or lower body. In addition, the video only shows McDonald's upper body making small, intermittent movements as what appear to be puffs of smoke rise from his body. Those small movements are not suggestive of a person trying to get to his feet. Accordingly, Viramontes's statement that McDonald attempted to get up after he was shot is demonstrably false. In his OIG interview, Viramontes was shown video footage of the shooting, and given several opportunities to clarify or correct this false statement. Instead of doing so, Viramontes acknowledged that his statement was inconsistent with the video, but continued to stand by it stating, "I believe what I stated is what I thought I saw." Viramontes OIG Tr. 156:18-19. Viramontes offers no further explanation for why his statement differed so dramatically from the video footage, which does not show McDonald attempting to get to his feet. The starkness of the contrast between Viramontes's statement and the video evidence, and Viramontes's failure to offer any clarification or explanation, demonstrate the intentional nature of his false statement.

Second, Viramontes, by his own admission, could not have heard Van Dyke order McDonald to "drop the knife" before he began shooting McDonald, and therefore could not have seen McDonald "ignore" the verbal direction. The 813R dashcam establishes that Viramontes was opening the driver's side door of 841R as Van Dyke began shooting McDonald. Viramontes admitted he did not hear Van Dyke give the "drop the knife" directive until after he opened his door. Viramontes further admitted that he "couldn't have" heard Van Dyke say "drop the knife" before Van Dyke started firing because Viramontes "was still traveling." Viramontes OIG Tr. 152:9-11. Thus, Viramontes's statement to March that McDonald ignored Van Dyke's "drop the knife" directive was false. Viramontes acknowledged that he could not have heard any orders issued by Van Dyke before Van Dyke started shooting. Nonetheless, when asked whether he stood by his statement to March, as recorded in the CSR, Viramontes answered, "Yes." Viramontes OIG Tr. 133:16.

Viramontes's original statements, as laid out in March's CSR, suggest a clear sequence of events: that first, Van Dyke ordered McDonald to drop the knife, then McDonald ignored the directive, and then Van Dyke began shooting. While Viramontes corrected his statement to say that he was still inside his car before Van Dyke started shooting, he did not correct this essential sequence of events. By ratifying his statements to March, outside of the single clarification regarding whether he was inside or outside his car, Viramontes stood by a sequence of events which served to justify Van Dyke's shooting of McDonald, and which Viramontes cannot possibly have witnessed. If Viramontes did not hear Van Dyke order McDonald to "drop the knife" before shooting him, then it cannot be true that Viramontes witnessed McDonald ignore the order before Van Dyke shot him. At no time did Viramontes correct or clarify this false statement.

Viramontes's false statements served to materially exaggerate the danger McDonald posed to Van Dyke and Walsh. In this context, Viramontes's statements can be seen as a deliberate

attempt to establish the false narrative that Van Dyke shot an oncoming McDonald in response to McDonald's potentially deadly knife attack. That both of Viramontes's false statements serve to establish this false narrative undermines any suggestion that they were the products of mistake or misapprehension. Far removed from any pressure or confusion surrounding rapidly unfolding events, in his OIG interview, Viramontes was given the opportunity to correct, clarify, or explain his false statements. He was shown video of the shooting which objectively contradicts his statements, and still he stood by them. The only available conclusion, then, is that Viramontes was not mistaken or confused, but rather that he intentionally made false statements.

## **VI. RECOMMENDATION**

Viramontes's false statements raise significant concerns regarding his credibility and ability to perform his duties as a sworn officer. As a sworn officer, Viramontes's reports are relied upon in criminal legal proceedings and his credibility is therefore critical to his position. An officer who has made false statements in an official investigation has irrevocably tainted his credibility and has wholly disqualified himself from effectively executing core police functions. Based on this conduct he may be the subject of cross-examination in any contested proceedings in which he may appear as a witness, *see FED. R. EVID. 608(b)* ("Specific instances of conduct"), and his conduct and the findings resulting from this investigation would further qualify as impeachment material that should, in principle, be disclosed in any contested proceeding involving the official records or testimony Viramontes generates. *See Giglio v. United States*, 405 U.S. 150 (1972) (requiring disclosure in criminal case of information impeaching of government witness's credibility). Illinois courts have repeatedly noted that "as the guardians of our laws, police officers are expected to act with integrity, honesty, and trustworthiness" and have found intentional false or misleading statements by police officers to be sufficient cause for termination. *Rodriguez v. Weis*, 408 Ill. App. 3d 663, 671 (1st Dist. 2011) (quoting *Sindermann v. Civil Service Comm'n*, 275 Ill. App. 3d 917, 928 (2nd Dist. 1995)). OIG therefore recommends that CPD discharge Viramontes and refer him for placement on the ineligible for rehire list maintained by the Department of Human Resources.

## **VII. CPD RULE VIOLATIONS**

- |                |   |
|----------------|---|
| <b>Rule 2</b>  | Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department. |
| <b>Rule 3</b>  | Any failure to promote the Department's efforts to implement its policy or accomplish its goals.                                      |
| <b>Rule 14</b> | Making a false report, written or oral.   |

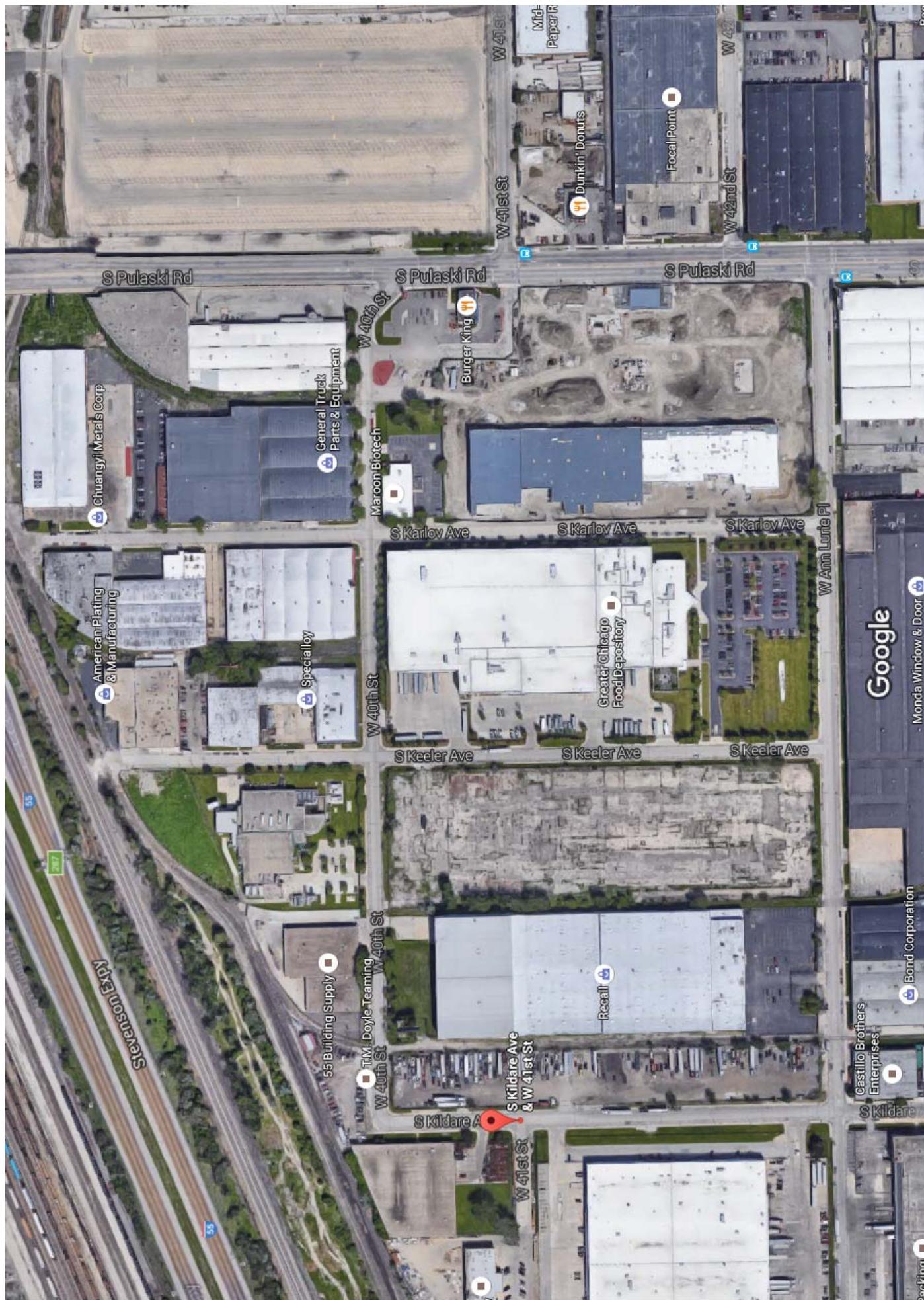
# **Appendix A**

S Kildare Ave & W 41st St - Google Maps

S Pulaski Rd

S Pulaski Rd

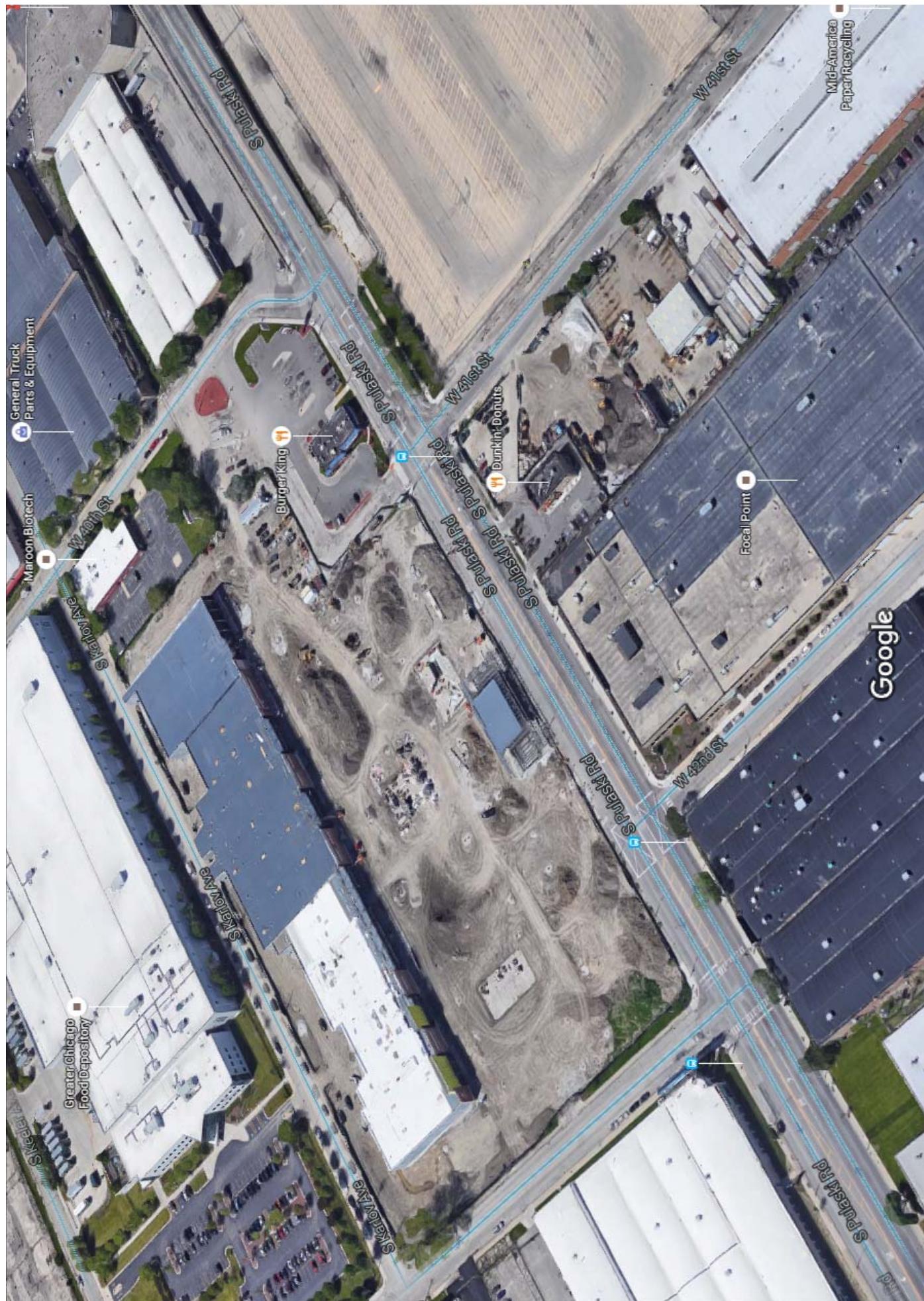
**S Pulaski Rd**



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